

SUBJECT: Requirements for Mental Health Evaluations of Members of the Armed Forces

References: (a) DoD Directive 6490.1, "Mental Health Evaluations of Members of the Armed Forces," October 1, 1997
(b) Section 546 of Public Law 102-484, "National Defense Authorization Act for Fiscal Year 1993," October 23, 1992
(c) DoD Directive 7050.6, "Military Whistleblower Protection," August 12, 1995
(d) National Center for State Courts' Guidelines for Involuntary Civil Commitment, 1986¹
(e) through (p), see enclosure 1

A. PURPOSE

This Instruction:

1. Implements DoD policy, assigns responsibility, and prescribes procedures in accordance with references (a), (b) and (c) for the referral, evaluation, treatment and administrative management of Service members who may require mental health evaluation, psychiatric hospitalization and/or assessment of risk for potentially dangerous behavior.

2. Establishes procedures to protect the rights of Service members referred by commanding officers for mental health evaluations, including whistleblower protections.

3. Establishes procedures for psychiatric hospitalization of active duty Service members. These procedures are modeled after guidance prepared by professional civilian mental health organizations for psychiatric hospitalization and treatment of adults per references (d) through (i).

4. Provides guidance to mental healthcare providers and commanding officers about evaluations, treatment, and recommendations for administrative management of Service members referred for mental health evaluations who may suffer from serious mental disorders and who may be imminently or potentially dangerous.

B. APPLICABILITY

This Instruction applies to the Office of the Secretary of Defense, the Military Departments (including the U.S. Coast Guard when it operates as a Military Service in the Navy), the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Inspector General of the Department of Defense (IG, DoD), the Uniformed Services University of the Health Sciences (USUHS), the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components").

C. DEFINITIONS

Terms used in this Instruction are defined in enclosure 2.

¹ Available from the National Center for State Courts, Williamsburg, VA 23185

D. POLICY

It is DoD policy that:

1. A commanding officer shall refer a Service member for mental health evaluation in accordance with DoD Directive 6490.1 (reference (a)), Pub. L. No. 102-484 (1992), Section 546 (reference (b)), and DoD Directive 7050.6 (reference (c)).
2. A Service member shall be afforded rights and protections under references (a), (b), and (c) when referred for mental health evaluation.
3. A Service member cannot be referred for mental health evaluation in reprisal for disclosures protected under references (a), (b), and (c).
4. If clinically indicated for evaluation and/or treatment, the Service member shall be hospitalized in accordance with reference (a).
5. The final assessment, treatment decisions, and recommendations given to commanding officers about a Service member who is judged clinically to be imminently or potentially dangerous, shall be made by a doctoral-level mental healthcare provider with clinical practice privileges.
6. Mental healthcare providers shall provide information to commanding officers about Service members referred for mental health evaluations about diagnosis, treatment, and prognosis and shall make recommendations about administrative management, which commanding officers shall consider.

E. RESPONSIBILITIES

1. The Assistant Secretary of Defense for Health Affairs under the Undersecretary of Defense for Personnel and Readiness shall exercise oversight for compliance with this Instruction on mental health evaluations.
2. The Secretaries of the Military Departments shall:
 - a. Implement this DoD Instruction which provides for the rights and protections of Service members for the proper referral for mental health evaluations in accordance references (a), (b) and (c).
 - b. Ensure that commanding officers:
 - (1) Are familiar with DoD and Service directives, instructions and regulations for the management of imminently or potentially dangerous Service members and of procedures for referral for mental health evaluations in accordance with (IAW) DoD Directive 6490.1 (reference (a)) and this Instruction.

(2) Consider recommendations made by mental healthcare providers and take necessary precautions in the management of imminently or potentially dangerous Service members.

c. Ensure that mental healthcare providers conduct thorough evaluations, take appropriate precautions and make written recommendations to commanding officers in cases of Service members who are judged clinically to be imminently or potentially dangerous IAW subsection D.7 of reference (a) and subsection F.3, below.

d. Provide appropriate periodic training for all Service members and DoD civilian employees in the initial management and referral of Service members who are believed to be imminently dangerous. Such training shall include the recognition of potentially dangerous behaviors; appropriate security responses to emergency situations; and administrative management of such cases. Training shall be specific to the needs, rank, level of responsibility and assignment of the Service member or civilian employee.

F. PROCEDURES

1. General Guidelines for Referral of Service Members for Mental Health Evaluations

a. Commanding Officer Actions

(1) The responsibility for determining whether or not referral for mental health evaluation should be made under the standards set forth in reference (a) and this Instruction rests with the Service member's designated commanding officer at the time of referral.

(2) When a commanding officer determines it is necessary in his or her opinion to refer a Service member for mental health evaluation, the commanding officer first shall consult with a mental healthcare provider to discuss the Service member's actions and behaviors that the commanding officer believes warrant the evaluation. The mental healthcare provider shall provide advice and recommendations about whether the evaluation should be conducted routinely or on an emergency basis. If a mental healthcare provider is not available, the commanding officer shall consult a physician, if available, or the senior privileged non-physician provider present. For non-emergency referrals, the commanding officer shall forward to the commanding officer of the Medical Treatment Facility (MTF) or clinic a memorandum IAW enclosure 3 formally requesting a mental health evaluation.

(3) Commanding officers of MTFs or clinics who wish to refer a Service member for a non-emergency mental health evaluation shall forward to the chairman of that mental health department a memorandum formally requesting mental health evaluation in accordance with (IAW) enclosure 3.

(4) Non-Emergency Mental Health Evaluations. The commanding officer shall ensure that the Service member is provided a written memorandum at least two business days before a routine (non-emergency) referral for mental health evaluation IAW enclosure 4.

(a) This memorandum shall include, at a minimum, the following:

1 A brief factual description of the behaviors and/or verbal communications that led to the commanding officer's decision to refer the Service member for mental health evaluation.

2 The name or names of the mental healthcare provider(s) with whom the commanding officer consulted before making the referral. If a consultation with a mental healthcare provider was not possible, the memorandum shall state the reason(s) why.

3 Notification of the Service Member's Statement of Rights under Pub. L. No. 102-484 (1992), Section 546 (reference (b)). See enclosure 4.

4 The date, time, and place the mental health evaluation is scheduled and the name and rank of the mental healthcare provider who will conduct the evaluation.

5 The titles and telephone numbers of other authorities, including attorneys, Inspectors General, and chaplains, who can assist the Service member who wishes to question the necessity of the referral.

6 The name and signature of the commanding officer.

(b) The Service member shall acknowledge that he or she has been advised of the reasons for referral for mental health evaluation and his or her rights by signing the memorandum. If the Service member refuses or declines, the commanding officer shall so state on the memorandum and the reasons the Service member gave for not signing the memorandum.

(c) Copies of the signed memorandum shall be provided to the Service member and to the mental healthcare provider who shall conduct the evaluation of the Service member.

(d) Commanding officers shall not offer Service members an opportunity to waive his or her right to receive the written memorandum and statement of rights as described above in subparagraph F.1.a.(4)(a).

(5) Emergency Evaluations.

(a) When the commanding officer makes a clear and reasoned judgment that the case constitutes an emergency, the commanding officer's first priority shall be to protect the Service member and potential victims from harm.

(b) The commanding officer shall make every effort to consult a mental healthcare provider, or other privileged healthcare provider if a mental healthcare provider is not readily available, prior to referring or sending a Service member for an emergency mental health evaluation.

(c) The commanding officer shall take actions to safely convey the Service member to the nearest mental healthcare provider or, if unavailable, a physician, or the senior privileged non-physician provider present, as soon as is practical.

(d) The commanding officer shall, as soon as is practicable, provide the Service member a memorandum and statement of rights as described in subparagraph F.1.a.(4)(a), above.

(e) If, due to the nature of the emergency, the commanding officer was unable to consult with the mental healthcare provider or other privileged healthcare provider, prior to transporting the Service member for evaluation, the commanding officer shall forward a memorandum documenting the circumstances and observations about the Service member that led to the commanding officer's decision to refer the Service member on an emergency basis. This memorandum shall be forwarded by facsimile, overnight mail or courier to the mental healthcare provider or other privileged healthcare provider, if a mental healthcare provider is not available, as soon as is practical.

b. Provision of Counsel. Upon request by a Service member for advice from an attorney, an attorney who is a member of the Armed Forces or employed by the Department of Defense shall be appointed at no cost to the Service member to advise the Service member of ways in which he or she may seek redress (including, but not limited to, Article 138 of the UCMJ (reference (j))). If a military attorney is not reasonably available, every effort should be made to provide legal consultation by telephone.

c. Mental Healthcare Provider Actions

(1) Before a non-emergency mental health evaluation occurs, the mental healthcare provider shall determine if procedures for referral for mental health evaluation have been followed in accordance with DoD Directive 6490.1 (reference (a)) and this Instruction. Specifically, the mental healthcare provider shall review the signed memorandum including the Statement of Service Member's Rights forwarded by the Service member's commanding officer in accordance with subparagraph F.1.a.(4)(a), above.

(2) Whenever there is evidence which indicates that the mental health evaluation may have been requested improperly, the mental healthcare provider shall first confer with the referring command to clarify issues about the process or procedures used in referring the Service member. If, after such discussion, the mental healthcare provider believes the referral may have been conducted improperly per DoD Directive 6490.1 (reference (a)), Pub. L. No. 102-484 (1992), Section 546 (reference(b)), or DoD Directive 7050.6 (reference ((c))), the mental health care provider shall report such evidence through his or her chain of command to the next higher level of the referring commanding officer.

(3) The mental healthcare provider shall advise the Service member referred for mental health evaluation of the purpose, nature, and likely consequences of the evaluation before the evaluation begins, and shall advise the Service member that the evaluation is not confidential.

(4) Absent an emergency, when a mental healthcare provider both evaluates and provides therapy to a Service member referred by the Service member's commanding officer, the

possible conflict of duties should be explained clearly to the Service member at the beginning of the therapeutic relationship. See the Principles of Medical Ethics with Annotations Especially Applicable to Psychiatry; e.g., Section 4 (reference (g)); the Ethical Principles of Psychologists and Code of Conduct; e.g., Principle B (Integrity), Principle D (Respect for People's Rights and Dignity) and Principle E (Concern for Other's Welfare), (reference (h)); and the National Association of Social Workers' "Code of Ethics;" e.g., Principles of Dignity and Worth of the Person, Importance of Human Relationships, and Integrity (reference (i)).

(5) Following evaluation, the mental healthcare provider shall forward a memorandum to the Service member's commanding officer to inform him or her of the results of the mental health evaluation and provide recommendations, in accordance with enclosure 5.

d. The Service Inspector General shall:

(1) Report to the IG, DoD, within ten working days of receipt, all allegations submitted by the Service member or the Service member's legal guardian to an IG within the Department of (Service), that a Service member was referred for a mental health evaluation in violation of reference (a). The notifications shall be made in writing and shall include the following:

(a) Rank, name and duty location of the Service member.

(b) Synopsis of the specific allegation(s) and the data received by the IG; and

(c) Rank, name and duty location of the proposed investigator.

(2) Unless notified that the IG, DoD, assumes investigative responsibility for a particular matter, initiate or cause to be initiated, an investigation of the issues raised in the allegation(s).

(3) If the investigation is not completed within 90 days of receipt of an allegation, provide an interim report to the IG, DoD, on the 90th day and supplement it every 60 days thereafter, until the final report is submitted.

(4) Provide the IG, DoD, a copy of the final report of investigation with attachments within one week of completion of the final report of investigation.

(5) Provide to the IG, DoD, a written report of any disciplinary and/or administrative action, and the nature thereof, taken against any individual in connection with the investigation, within one week after such action is taken.

2. Hospitalization for Psychiatric Evaluation and/or Treatment

a. Inpatient hospitalization for psychiatric evaluation and/or treatment shall be conducted in accordance with DoD Directive 6490.1, subsection D.5 (reference (a)).

b. Additional rights of Service members with respect to involuntary psychiatric hospitalization:

(1) Commanding officers shall coordinate with healthcare providers, as soon after admission as the Service member's condition permits, to inform the Service member of the reasons for his or her admission (evaluation and/or treatment), the likely consequence(s) of the evaluation and any treatment, and the Service member's rights in accordance with paragraphs F.1.a., F.1.b., above and this paragraph.

(2) The Service member shall have the right to contact a relative, friend, chaplain, attorney, and/or an IG as soon after admission as the Service member's condition permits.

(3) The Service member shall be evaluated by the attending privileged psychiatrist, or another privileged physician if a psychiatrist is not available, within 24 hours after admission to determine if continued hospitalization and/or treatment is clinically indicated or, alternately, to determine if the Service member should be discharged from the hospital.

(4) If the attending psychiatrist determines that continued hospitalization is clinically indicated, the Service member shall be notified orally and in writing of the reasons for continued hospitalization.

(5) A review of circumstances and clinical indications leading to the involuntary psychiatric hospitalization and the appropriateness of continued involuntary hospitalization and treatment shall be conducted in accordance with paragraph F.2.c., below.

c. Independent review procedures for continued involuntary psychiatric hospitalization:

(1) Within 72 hours of admission, an independent, privileged psychiatrist, or other medical officer, if a psychiatrist is not available, shall review the factors that led to the involuntary admission and shall assess the clinical appropriateness of continued involuntary hospitalization. The reviewer shall not be in the member's immediate chain of command, shall be an O-4 or greater or civilian equivalent, and shall be an impartial, disinterested party appointed by the medical treatment facility commanding officer.

(2) The review procedure shall include a review of the medical record, and, as appropriate, the memoranda described in subparagraph F.1.a.(5)(d) and (e), above, and an examination of the Service member.

(3) The reviewer shall notify the Service member of the right to have legal representation during the review by a judge advocate, or by an attorney of the Service member's choosing, at the Service member's own expense, if reasonably available.

(4) The reviewer shall introduce himself or herself to the Service member and shall indicate the reasons for the interview and that he or she shall conduct an independent, impartial review of the reasons for the Service member's involuntary psychiatric hospitalization.

(5) The reviewer shall determine and document in the inpatient medical record whether or not continued involuntary psychiatric hospitalization and/or treatment is clinically

appropriate. If indicated, the reviewer shall specify the clinical conditions for continued involuntary inpatient treatment; the clinical conditions required for discharge from the hospital; and shall determine when the next independent review for continued involuntary hospitalization shall occur, which shall not exceed five business days. The Service member shall be notified about the reviewer's recommendations for continued involuntary hospitalization and the date of the next review.

(6) The reviewer shall determine if procedures for the mental health referral were followed in accordance with DoD Directive 6490.1 (reference (a)) and this Instruction. Whenever there is evidence which indicates that the mental health evaluation may have been requested or conducted improperly, the reviewer shall first confer with the referring command and the admitting mental healthcare provider to clarify issues about the process or procedures used in referring and/or admitting the Service member. If the reviewer determines that the referral or admission was made improperly, the reviewer shall report the finding through his or her chain of command to the next level above the referring commanding officer or admitting physician for further investigation and for possible referral to the Service's IG and the IG, DoD, using procedures established by each Service.

3. Imminently Dangerous Service Members

a. DoD Component Actions. DoD Components shall establish policy and procedures for the immediate management of Service members who are believed to be imminently dangerous, such as brandishing weapons; threatening, by words or deeds, to kill or seriously harm himself, herself or others; or threatening to destroy property under circumstances likely to lead to serious injury or death, when the facts and circumstances indicate that the Service member likely may cause such injury or death. Procedures shall specify how to:

(1) Manage an emergency situation pending the arrival of police or security personnel.

(2) Notify local security or civilian police authorities.

(3) Refer the Service member for mental health evaluation in accordance with DoD Directive 6490.1 (reference (a)), and paragraphs F.1.a., b., and c. above.

b. Commanding Officer Actions

(1) The commanding officer shall refer a Service member for an emergency mental health evaluation as soon as is practicable in accordance with reference (a) and this Instruction whenever a Service member, by actions or words, such as actual, attempted or threatened violence, intends or is likely to cause serious injury to himself, herself or others and when the facts and circumstances indicate that the Service member's intent to cause such injury is likely and when the commanding officer believes that the Service member may be suffering from a severe mental disorder. Prior to such referral, the commanding officer shall consult with a mental healthcare provider, or other healthcare provider, if a mental healthcare provider is not available, in accordance with reference (a), subsection D.2. and 3. and this Instruction.

(2) Commanding officers shall consider information and recommendations about Service members provided by social workers or other DoD personnel assigned duties under the Family Advocacy Program, operated under the authority of DoD Directive 6400.1 (reference (k)) or the rehabilitation and referral programs for alcohol and drug abusers, operated under the authority of DoD Directive 1010.4 (reference (l)) and DoD Instruction 1010.6 (reference (m)).

c. Authority to Perform Mental Health Evaluations

(1) DoD psychiatrists, doctoral-level clinical psychologists or doctoral-level clinical social workers with clinical practice privileges have authority to clinically evaluate the risk for imminent dangerousness and shall perform mental health evaluations of Service members identified within the scope of subsection F.3. of this Instruction.

(2) Other privileged healthcare providers frequently perform routine clinical evaluations of Service members in which assessment of potential dangerousness may be an element. This Instruction does not restrict such evaluations.

(3) Whenever a privileged healthcare provider concludes, in the course of a mental health evaluation, that a Service member may be imminently dangerous, the healthcare provider shall refer the Service member to a privileged, doctoral-level mental healthcare provider for evaluation and assessment of risk for imminent or potential dangerousness.

(4) Only in those rare instances or remote areas in which a privileged doctoral-level mental healthcare provider is not readily available shall a commanding officer refer a Service member to a physician, if available, or to the senior privileged non-physician provider present, pending evaluation by a privileged doctoral-level mental healthcare provider.

d. Requirements for Conducting Emergency Mental Health Evaluations for Imminent Dangerousness

(1) Emergency evaluations of Service members believed to be imminently dangerous shall be conducted as soon as possible, but within 24 hours of the initial request. Meanwhile, the commanding officer shall take action to protect the Service member's safety and the safety of potential victims, if any.

(2) Mental health evaluations shall be conducted in a manner consistent with applicable clinical standards of care, as supplemented by guidelines established by the Assistant Secretary of Defense for Health Affairs, in accordance with (IAW) enclosure 6. Such evaluations shall include a detailed patient history, a mental status examination, and, to the extent clinically indicated, a physical and neurological examination, and laboratory studies.

(3) In cases in which a mental health evaluation is indicated, and there is a clear and reasonable basis to conclude that the Service member may be suffering from a serious mental disorder, and the Service member is judged to be or may become imminently dangerous, and a complete and thorough evaluation cannot be conducted as an outpatient within an acceptable time period (usually less than 24 hours), the Service member may be admitted to a psychiatric

unit (or medical unit, if a psychiatric unit is not available) for an inpatient evaluation IAW DoD Directive 6490.1 (reference (a)) and subsection F.2., above.

(4) The decision to admit a Service member for an inpatient mental health evaluation or treatment rests solely with a mental healthcare provider who has approved hospital admitting privileges. In cases of deployed units, or isolated geographic locations where no mental healthcare providers are available, a physician, if available, or the senior privileged non-physician provider present, shall take actions and/or make recommendations to the Service member's commanding officer to protect the Service member's safety and that of the Service member's unit and/or potential victims, until such an evaluation can be conducted.

(5) When a mental healthcare provider performs a comprehensive mental health evaluation and determines that a Service member is at significantly increased risk of imminently or potentially dangerous behavior, the provider also shall take precautions IAW reference (a), subsection D.7. and paragraph F.3.f., below.

e. Medical Record Documentation

(1) The responsible privileged healthcare provider shall document in the medical record the clinical assessment, including the assessment of risk for imminent dangerousness, treatment plan, progress of treatment, discharge assessment, recommendations to commanding officers, and notification of potential victims under reference (a), subsection D.7. and paragraph F.3.f., below.

(2) Medical records shall include sufficient clinical information to support the diagnosis, risk assessment, prognosis, and treatment(s).

(3) Memoranda or copies of consultation reports to the commanding officer which document findings and state recommendations shall include sufficient clinical information so that commanding officers understand the Service member's condition and can make reasoned decisions about the Service member's duties and medical care.

(4) Healthcare providers shall refrain from including superfluous personal information in memoranda to commanding officers or clinical information in medical records not required to substantiate diagnosis(es), prognosis, treatment plans or recommendations to commanding officers.

f. Healthcare Providers Duty to Take Precautions Against Threatened Injury

(1) In any case in which a Service member has communicated to a healthcare provider with clinical practice privileges an explicit threat to kill or seriously injure a clearly identified or reasonably identifiable person, or to destroy property under circumstances likely to lead to serious bodily injury or death, and the Service member has the apparent intent and ability to carry out the threat, the provider shall take precautions against such threatened injury. Such precautions may include any of the following:

(a) Notification of the Service member's commanding officer that the Service member is imminently or potentially dangerous.

(b) Notification of the military and/or civilian law enforcement authority where the threatened injury may occur.

(c) Notification of any identified potential victim(s) of the threats made.

(d) Recommendation to the Service member's commanding officer that appropriate precautions be taken under DoD Directive 6490.1, paragraph D.6.b. (reference (a)) and subsection D.6., above, and paragraph F.3.g., below.

(e) Admitting the Service member to an inpatient psychiatric or medical ward for evaluation and/or treatment of a mental disorder in accordance with (IAW) reference (a), subsection D.5. and subsection F.2., above.

(f) Referral of the Service member's case to the Service's physical evaluation board IAW reference (a), subparagraph D.6.c.(1).

(g) Recommendation to the commanding officer that the Service member be administratively separated for personality disorder IAW reference (a), subparagraph D.6.c.(2) or other applicable separation authority.

(2) The healthcare provider shall notify the Service member's commanding officer and any identifiable individuals who had been physically assaulted by the Service member immediately before hospitalization about the Service member's pending discharge from inpatient status.

(3) Documentation. The healthcare provider shall document in the medical record the date, time and name of each person and agency with whom he or she spoke when taking precautions against threatened injury.

(4) Disclosure to the Service Member. The healthcare provider shall inform the Service member that these precautions have been taken.

g. Recommendations to Commanding Officers and Service Members

(1) The mental healthcare provider shall provide to the commanding officer within one business day after completing a mental health evaluation of a Service member referred by the commanding officer, a memorandum that shall address, at a minimum, diagnosis, prognosis, treatment plan and recommendations regarding fitness and suitability for continued service and shall make recommendations about precaution(s), if appropriate, and administrative management of the Service member in accordance with (IAW) DoD Directive 6490.1, subsection D.6. (reference (a)) and enclosure 5 of this Instruction.

(2) The mental healthcare provider shall review with the Service member the clinical summaries, memorandum(a) and recommendations to the commanding officer.

h. Actions by Commanding Officers. Commanding officers shall take actions IAW reference (a), subsection D.8.

i. Medical Quality Management Case Review

(1) Every mental health evaluation or treatment case in which a Service member ultimately commits an act resulting in suicide, homicide, serious injury or significant violence, shall be systematically reviewed IAW the Medical Treatment Facility's (MTF's) plan for improving patient care and health outcomes. Assessment of findings shall be used to design and measure improvements of patient care processes, risk-management, and MTF staff competence.

(2) Reviews shall focus particularly on clinical assessment, treatment, progress, administrative recommendations and administrative follow-through, as documented in the medical and personnel records.

(3) Case reviews shall be included in on-going quality management activities. Such reviews shall include lessons learned and recommendations for improvement in the future medical management of Service members at increased risk of dangerous behavior.

(4) Medical quality management case review activities shall be coordinated as appropriate with other Service investigations.

(5) Medical quality management case review records shall be confidential in accordance with DoD Directive 6040.37, reference (n), and Section 1102 of 10 U.S.C. (reference (o)).

G. EFFECTIVE DATE AND IMPLEMENTATION

This Instruction is effective immediately.

Edward D. Martin, M.D.
Acting Assistant Secretary of Defense

Enclosures - 6
1. References

2. Definitions
3. Sample, Commanding Officer Request for Routine (Non Emergency) Mental Health Evaluation
4. Sample, Service Member Notification of Commanding Officer Referral for Mental Health Evaluation
5. Sample, Memorandum from Mental Healthcare Provider to Service Member's Commanding Officer
6. Guidelines for Mental Health Evaluation for Imminent Dangerousness

REFERENCES, continued

- (e) American Psychiatric Association's Task Force Report, "Involuntary Commitment to Outpatient Treatment," 1987²
- (f) American Psychiatric Association, "Guidelines for Legislation on the Psychiatric Hospitalization of Adults," American Journal of Psychiatry, 140:5, May 1983
- (g) American Psychiatric Association, "The Principles of Medical Ethics with Annotations Especially Applicable to Psychiatry," 1995²
- (h) American Psychological Association, "Ethical Principles of Psychologists and Code of Conduct," 1992³
- (i) National Association of Social Workers' "Code of Ethics," 1996⁴
- (j) Chapter 47 of title 10, United States Code, "Uniform Code of Military Justice," (UCMJ)
- (k) DoD Directive 6400.1, "Family Advocacy Program (FAP)," June 23, 1992
- (l) DoD Directive 1010.4, "Alcohol and Drug Abuse by DoD Personnel," August 25, 1980
- (m) DoD Instruction 1010.6, "Rehabilitation and Referral Services for Alcohol and Drug Abusers," March 13, 1985
- (n) DoD Directive 6040.37, "Confidentiality of Medical Quality Assurance (QA) Records," July 9, 1996
- (o) Section 1102 of title 10, United States Code
- (p) American Psychiatric Association (APA), "Diagnostic and Statistical Manual of Mental Disorders," (DSM-IV), Fourth Edition, Washington, D.C., APA Press, 1994

² Available from the American Psychiatric Association, 1400 K Street, NW, Washington, DC 20005

³ Available from the American Psychological Association, 750 First Street, NE, Washington, DC 20002

⁴ Available from the National Association of Social Workers, 750 First Street, NE, Suite 700, Washington, DC 20002

DEFINITIONS

1. Emergency. A situation in which a Service member is threatening imminently, by words or actions, to harm himself, herself or others, or to destroy property under circumstances likely to lead to serious personal injury or death, and to delay a mental health evaluation to complete administrative requirements in accordance with DoD Directive 6490.1 (reference (a)) or this Instruction could further endanger the Service member's life or well-being, or the well-being of potential victims. An emergency with respect to self may also be construed to mean an incapacity by the individual to care for him or herself, such as not eating or drinking; sleeping in inappropriate places or not maintaining a regular sleep schedule; not bathing; defecating or urinating in inappropriate places, etc. While the Service member retains the rights as described in reference (a) and this Instruction in cases of emergency, notification to the Service member of his or her rights shall not take precedence over ensuring the Service member's or other's safety and may be delayed until it is practical to do so.
2. Imminent Dangerousness. A clinical finding or judgment by a privileged, doctoral-level mental healthcare provider based on a comprehensive mental health evaluation that an individual is at substantial risk of committing an act or acts in the near future which would result in serious personal injury or death to himself, herself, another person or persons, or of destroying property under circumstances likely to lead to serious personal injury, or death, and that the individual manifests the intent and ability to carry out that action. A violent act of a sexual nature is considered an act which would result in serious personal injury.
3. Inspector General (IG). The Inspector General, DoD, and a military or civilian employee assigned or detailed under DoD Component regulations to serve as an IG at any command level in one of the DoD Components.
4. Least Restrictive Alternative Principle. A principle under which a member of the Armed Forces committed for hospitalization and treatment shall be placed in the most appropriate and therapeutic available setting that is no more restrictive than is conducive to the most effective form of treatment, and in which treatment is available and the risk of physical injury and/or property damage posed by such a placement are warranted by the proposed plan of treatment. Such treatments form a continuum of care including no treatment, outpatient treatment, partial hospitalization, residential treatment, inpatient treatment, involuntary hospitalization, seclusion, bodily restraint, and pharmacotherapy, as clinically indicated.
5. Mental Disorder. As defined by the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, (reference (p)), a mental disorder is

A clinically significant behavioral or psychological syndrome or pattern that occurs in an individual and that is associated with present distress (e.g., a painful symptom) or disability (e.g., impairment in one or more important areas of functioning) or with a significantly increased risk of suffering death, pain, disability, or an important loss of freedom. In addition, this syndrome or pattern must not be merely an expectable and

DEFINITIONS, continued

culturally sanctioned response to a particular event; for example, the death of a loved one. Whatever its original cause, it must currently be considered a manifestation of a behavioral, psychological, or biological dysfunction in the individual. Neither deviant behavior (e.g., political, religious, or sexual) nor conflicts that are primarily between the individual and society are mental disorders unless the deviance or conflict is a symptom of a dysfunction in the individual, as described above.

6. Mental Health Evaluation. A clinical assessment of a Service member for a mental, physical, or personality disorder, the purpose of which is to determine a Service member's clinical mental health status and/or fitness and/or suitability for service. The mental health evaluation shall consist of, at a minimum, a clinical interview and mental status examination and may include, additionally: a review of medical records; a review of other records, such as the Service personnel record; information forwarded by the Service member's commanding officer; psychological testing; physical examination; and laboratory and/or other specialized testing. Interviews conducted by the Family Advocacy Program or Service's drug and alcohol abuse rehabilitation program personnel are not considered mental health evaluations for the purpose of DoD Directive 6490.1 (reference (a)) and this Instruction.

7. Mental Healthcare Provider. A psychiatrist, doctoral-level clinical psychologist or doctoral-level clinical social worker with necessary and appropriate professional credentials who is privileged to conduct mental health evaluations for DoD components.

8. Potential Dangerousness (Not Imminently Dangerous). A clinical finding or judgment by a privileged, doctoral-level mental healthcare provider based on a comprehensive mental health evaluation that an individual has demonstrated violent behavior against himself, herself, another person or persons, or of destroying property under circumstances likely to lead to serious personal injury or death, or possesses long-standing character traits indicating a tendency towards such violence, but is not currently immediately dangerous to himself, herself or to others. A violent act of a sexual nature is considered an act which would result in serious personal injury.

9. Protected Communication. (Colloquially known as "Whistleblowing" Communication) Any lawful communication to a Member of Congress or an Inspector General (IG). A communication in which a member of the Armed Forces communicates information that the member reasonably believes evidences a violation of law or regulation, including sexual harassment or unlawful discrimination, mismanagement, a gross waste of funds or other resources, an abuse of authority, or a substantial and specific danger to public health or safety when such communication is made to any of the following: A member of Congress; an IG; a member of a DoD audit, inspection, investigation, or law enforcement organization; or any other person or organization (including any person or organization in the chain of command) designated under Component regulations or other established administrative procedures to receive such communication.

DEFINITIONS, continued

10. Routine Mental Health Evaluation (Non emergency Mental Health Evaluation). Any mental health evaluation that is not an emergency and which falls under the scope of this Instruction.

11. Self-Referral (or Voluntary Referral). The process of seeking information about or obtaining an appointment for a mental health evaluation or treatment initiated by a Service member independently for him or herself.

12. Senior Privileged Non-Physician Provider. In the absence of a physician, the most experienced and trained healthcare provider who holds privileges to evaluate and treat patients, such as a clinical social worker, a nurse practitioner, an independent duty corpsman, etc.

13. Service Member. Individuals in the Active or Reserve components of the United States Army, Navy, Air Force or Marine Corps and the Coast Guard when it operates as a military service under the U.S. Navy.

SAMPLE
COMMANDING OFFICER REQUEST FOR ROUTINE
(NON EMERGENCY) MENTAL HEALTH EVALUATION

Date:

MEMORANDUM FOR COMMANDING OFFICER (Name of Medical Treatment Facility
(MTF) or Clinic)

FROM: COMMANDING OFFICER, (Name of Command)

SUBJECT: Command Referral for Mental Health Evaluation of (Service Member Rank, Name,
Branch of Service and SSN)

References: (a) DoD Directive 6490.1, "Mental Health Evaluations of Members of the Armed Forces," October 1, 1997
(b) DoD Instruction 6490.4, "Requirements for Mental Health Evaluations of Members of the Armed Forces," August 28, 1997
(c) Section 546 of Public Law 102-484, "National Defense Authorization Act for Fiscal Year 1993," October 1992
(d) DoD Directive 7050.6, "Military Whistleblower Protection," August 12, 1995

(1) In accordance with references (a) through (d), I hereby request a formal mental health evaluation of (rank and name of Service member).

(2) (Name and rank of Service member) has (years) and (months) active duty service and has been assigned to my command since (date). Armed Services Vocational Aptitude Battery (ASVAB) scores upon enlistment were: (list scores). Past average performance marks have ranged from _____ to _____ (give numerical scores). Legal action is/is not currently pending against the Service member. (If charges are pending, list dates and UCMJ articles). Past legal actions include: (List dates, charges, non judicial punishments (NJPs) and/or findings of Courts Martial.)

(3) I have forwarded to the Service member a memorandum that advises (rank and name of Service member) of his (or her) rights. This memorandum also states the reasons for this referral, the name of the mental health care provider(s) with whom I consulted, and the names and telephone numbers of judge advocates, DoD attorneys and/or Inspectors General who may advise and assist him (or her). A copy of this memorandum is attached for your review.

(4) (Service member's rank and name) has been scheduled for evaluation by (name and rank of mental healthcare provider) at (name of MTF or clinic) on (date) at (time).

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COMMANDING OFFICER REQUEST FOR ROUTINE
(NON EMERGENCY) MENTAL HEALTH EVALUATION, continued

(5) Should you wish additional information, you may contact (name and rank of the designated point of contact) at (telephone number).

(6) Please provide a summary of your findings and recommendations to me as soon as they are available.

(Signature)
Rank and Name of Commanding Officer

Attachment:
As stated

SAMPLE
SERVICE MEMBER NOTIFICATION OF COMMANDING OFFICER
REFERRAL FOR MENTAL HEALTH EVALUATION

Date:

MEMORANDUM FOR (Service member's rank, name and SSN)

FROM: COMMANDING OFFICER, (Name of Command)

SUBJECT: Notification of Commanding Officer Referral for Mental Health Evaluation (Non-Emergency)

References: (a) DoD Directive 6490.1, "Mental Health Evaluations of Members of the Armed Forces," October 1, 1997
(b) DoD Instruction 6490.4, "Requirements for Mental Health Evaluations of Members of the Armed Forces," August 28, 1997
(c) Section 546 of Public Law 102-484, "National Defense Authorization Act for Fiscal Year 1993," October 1992
(d) DoD Directive 7050.6, "Military Whistleblower Protection," August 12, 1995

(1) In accordance with references (a) through (d), this memorandum is to inform you that I am referring you for a mental health evaluation.

(2) The following is a description of your behaviors and/or verbal expressions that I considered in determining the need for a mental health evaluation: (Provide dates and a brief factual description of the Service member's actions of concern.)

(3) Before making this referral, I consulted with the following mental health care provider(s) about your recent actions: (list rank, name, corps, branch of each provider consulted) at (name of Medical Treatment Facility (MTF) or clinic) on (date(s)). (Rank(s) and name(s) of mental healthcare provider(s)) concur(s) that this evaluation is warranted and is appropriate.

OR

Consultation with a mental healthcare provider prior to this referral is (was) not possible because (give reason; e.g., geographic isolation from available mental healthcare provider, etc.)

SAMPLE

SERVICE MEMBER NOTIFICATION OF COMMANDING OFFICER
REFERRAL FOR MENTAL HEALTH EVALUATION, continued

(4) Per references (a) and (b), you are entitled to the rights listed below:

a. The right, upon your request, to speak with an attorney who is a member of the Armed Forces or is employed by the Department of Defense who is available for the purpose of advising you of the ways in which you may seek redress should you question this referral.

b. The right to submit to your Service Inspector General or to the Inspector General of the Department of Defense (IG, DoD) for investigation an allegation that your mental health evaluation referral was a reprisal for making or attempting to make a lawful communication to a Member of Congress, any appropriate authority in your chain of command, an IG, or a member of a DoD audit, inspection, investigation or law enforcement organization or in violation of (reference(a)), DoD Instruction (reference (b)) and/or any applicable Service regulations.

c. The right to obtain a second opinion and be evaluated by a mental healthcare provider of your own choosing, at your own expense, if reasonably available. Such an evaluation by an independent mental healthcare provider shall be conducted within a reasonable period of time, usually within 10 business days, and shall not delay nor substitute for an evaluation performed by a DoD mental healthcare provider.

d. The right to communicate without restriction with an IG, attorney, Member of Congress, or others about your referral for a mental health evaluation. This provision does not apply to a communication that is unlawful.

e. The right, except in emergencies, to have at least two business days before the scheduled mental health evaluation to meet with an attorney, IG, chaplain, or other appropriate party. If I believe your situation constitutes an emergency or that your condition appears potentially harmful to your well being and I judge that it is not in your best interest to delay your mental health evaluation for two business days, I shall state my reasons in writing as part of the request for the mental health evaluation.

f. If you are assigned to a naval vessel, deployed or otherwise geographically isolated because of circumstances related to military duties that make compliance with any of the procedures in paragraphs (3) and (4), above, impractical, I shall prepare and give you a copy of the memorandum setting forth the reasons for my inability to comply with these procedures.

(5) You are scheduled to meet with (name and rank of the mental healthcare provider) at (name of MTF or clinic) on (date) at (time).

SAMPLE
SERVICE MEMBER NOTIFICATION OF COMMANDING OFFICER

REFERRAL FOR MENTAL HEALTH EVALUATION, continued

(6) The following authorities can assist you if you wish to question this referral:

- a. Military Attorney: (Provide rank, name, location, telephone number and available hours.)
- b. Inspector General: (Provide rank/title, name, address, telephone number and available hours for Service and IG, DoD. The IG, DoD number is 1-800-424-9098.)
- c. Other available resources: (Provide rank, name corps/title of chaplains or other resources available to counsel and assist the Service member.)

(Signature)
Rank and Name of Commanding Officer

I have read the memorandum above and have been provided a copy.

Service member's signature: _____ Date: _____

OR

The Service member declined to sign this memorandum which includes the Service member's Statement of Rights because (give reason and/or quote Service member).

Witness's signature: _____ Date: _____

Witness's rank and name: _____
Date: _____

(Provide a copy of this memorandum to the Service member.)

SAMPLE
MEMORANDUM FROM MENTAL HEALTHCARE PROVIDER
TO SERVICE MEMBER'S COMMANDING OFFICER

Date:

MEMORANDUM FOR COMMANDING OFFICER (Name of Subject's command)

FROM: (Rank and Name of Mental Healthcare Provider)

THROUGH: COMMANDING OFFICER, (Medical Treatment Facility (MTF) or Clinic)

SUBJECT: Mental Health Evaluation in the Case of (Service Member's Rank, Name and SSN)

References: (a) DoD Directive 6490.1, "Mental Health Evaluations of Members of the Armed Forces," October 1, 1997

(b) DoD Instruction 6490.4, "Requirements for Mental Health Evaluations of Members of the Armed Forces," August 28, 1997

(1) The above named Service member was seen on (date) at (location) by (mental healthcare provider's rank and name) after referral by (rank and name of Service member's commanding officer) for an emergency evaluation because of (brief summary of pertinent facts)

OR

for a non-emergency command directed evaluation because of (brief summary of pertinent facts).

(2) The evaluation revealed (brief description of findings).

(3) The Diagnosis(es) is/are

Axis I
Axis II
Axis III

(4) The Service member's diagnosis(es) do(es) not meet retention standards for continued military service and his/her case will be referred to the Physical Evaluation Board for administrative adjudication.

OR

SAMPLE

MEMORANDUM FROM MENTAL HEALTHCARE PROVIDER
TO SERVICE MEMBER'S COMMANDING OFFICER, continued

The Service member is deemed unsuitable for continued military service on the basis of the above diagnosis(es). (Provide explanation on how the Service member's personality disorder or substance abuse, for example, is maladaptive to adequate performance of duty.)

(5) This Service member is considered (Imminently Dangerous OR Potentially Dangerous) based upon (summary of clinical data to support this determination).

(6) The following clinical treatment plan has been initiated:

a. The Service member has been admitted to (ward and name of MTF or hospital) for further evaluation/observation/treatment. His/her physician is (rank/title and name) who may be reached at (telephone number).

OR

b. The Service member has been scheduled for outpatient follow-up (or treatment) on (date and time) at (name of MTF or mental health clinic) with (rank/title and name of privileged mental healthcare provider) who may be reached at (telephone number).

(7) RECOMMENDATIONS TO THE COMMANDING OFFICER: The Service member is returned to his/her Command, with the following recommendations (for potentially dangerous Service members, only):

a. Precautions: (e.g., order to move into military barracks; prevent access to weapons; consider liberty/leave restrictions; issue restraining order, etc.)

AND/OR

b. Process for expeditious administrative separation in accordance (with applicable Service Directive). The Service member does not have a severe mental disorder and is not considered mentally disordered. However, he/she manifests a long-standing disorder of character, behavior and adaptability that is of such severity so as to preclude adequate military service. Although not currently at significant risk for suicide or homicide, due to his/her lifelong pattern of maladaptive responses to routine personal and/or work-related stressors, he/she may become dangerous to him or herself or others in the future.

AND/OR

c. The Service member (is/is not) suitable for continued access to classified material and his/her (Secret/Top Secret/Top Secret Special Compartmentalized Clearance) should be (retained/rescinded).

AND/OR

SAMPLE

MEMORANDUM FROM MENTAL HEALTHCARE PROVIDER

TO SERVICE MEMBER'S COMMANDING OFFICER, continued

d. Other _____ (describe).

(8) The above actions taken and recommendations made have been discussed with the Service member who acknowledged that he/she understood them.

OR

The Service member's condition (diagnosis(es)) prevent(s) him/her from understanding the actions taken and recommendations made above.

(9) If you do not concur with these recommendations, DoD Directive 6490.1 "Mental Health Evaluations of Members of the Armed Forces," _____, 1997, (reference (a)) requires that you notify your next senior commanding officer within two business days explaining your decision to act against medical advice regarding administrative management of this Service member.

(Signature)

Mental Healthcare Provider's Rank, Name and Corps

GUIDELINES FOR MENTAL HEALTH EVALUATION
FOR IMMINENT DANGEROUSNESS

Clinical evaluations should include:

I. Record Review

A. Medical Record

1. History of pertinent medical problems and treatment
2. History of substance abuse evaluations and/or treatment
3. History of mental health evaluations and/or treatment

B. Family Advocacy Program (if applicable)

C. Service Personnel Record (if available)

Review documentation for disciplinary problems and counseling

II. History

A. History as obtained from the Service member and assessment of reliability

1. History of past violence towards others: ("Have you ever hurt anyone physically? Who? What did you do? How badly was the person hurt? How did you feel about it afterward? How do you feel about it now?")
2. Alcohol and illicit substance abuse/dependence
3. Personal/marital problems
4. Recent losses (job/family)
5. Legal/financial problems
6. History of childhood emotional, sexual and/or physical abuse or witnessing abuse
7. Past psychiatric history
8. Past medical history and current/recent medications

B. Information from command representative on Service member's behavior, work performance and general functioning

C. Pertinent information from family or friends

III. Mental Status Examination (emphasis on abnormal presentation)

- A. Appearance (ability to relate to the examiner, eye contact, hygiene, grooming)
- B. Behavior (psychomotor agitation or retardation)
- C. Speech (rate, rhythm)
- D. Mood (Service member's stated predominant mood)
- E. Affect

Is examiner's observations of member's affect consistent with stated mood?

If inconsistent, in what way?

GUIDELINES FOR MENTAL HEALTH EVALUATION

FOR IMMINENT DANGEROUSNESS, continued

F. Thought Processes

Is there evidence of psychotic symptoms, paranoid thoughts or feelings?

G. Thought Content

What does the Service member talk about spontaneously when allowed the opportunity? How does the Service member respond to specific questions about the facts or issues which led to his psychological evaluation? Is there evidence of an irrational degree of anger, rage, jealousy?

H. Cognition

Is the Service member oriented to person, place, time, date, and reason for the evaluation? Can he/she answer simple informational questions and do simple calculations?

I. Assessment of Suicide Potential

Ideation: Do you have or have you had any thoughts about dying or hurting yourself?

Intent: Do you wish to die?

Plan: Will you hurt yourself or allow yourself to be hurt “accidentally or on purpose?” Do you have access to weapons at work or at home?

Behaviors: Have you taken any actions towards hurting yourself; for example, obtaining a weapon with which you could hurt yourself?

Attempts: Have you made prior suicide attempts? When? What did you do? How serious was the injury? Did you tell anyone? Did you want to die?

J. Assessment of Current Potential for Future Dangerous Behavior

Ideation: Do you have or have you recently had any thoughts to harm or kill anyone?

Intent: Do you wish anyone were injured or dead?

Plan: Will you hurt or try to kill anyone?

Behaviors: Have you verbally threatened to hurt or kill anyone? Have you obtained any weapons?

Attempts: Have you physically hurt anyone recently? (Describe.)

IV. Psychological Testing Results (if applicable)

V. Physical Examination and Laboratory Test Results (if applicable)

VI. Assessment Shall Include:

A. Axis I through III diagnoses, as indicated, and Axis IV and V assessments

B. A statement of clinical assessment of risk for dangerous behavior, supported by history obtained from the Service member and others, the mental status examination,

GUIDELINES FOR MENTAL HEALTH EVALUATION
FOR IMMINENT DANGEROUSNESS, continued

pertinent actuarial factors and if pertinent, the physical examination and laboratory studies results.

VII. Recommendation/Plans Shall Address:

- A. Further clinical evaluation and treatment, as indicated
- B. Precautions taken by the provider and recommendations to the Service member's commanding officer per DoD Directive 6490.1 (reference (a)) and DoD Instruction (reference (b))
- C. Recommendations to the Service member's commanding officer for administrative management

VIII. Documentation

- A. Documentation of the history, mental status examination, physical findings, assessment, and recommendations shall be recorded on Standard Forms for inpatient or outpatient care.
- B. In those cases of individuals clinically judged to be imminently or potentially dangerous, a memorandum documenting the summary of clinical findings, precautions taken by the provider, verbal recommendations made to the Service member's commanding officer, and current recommendations shall be forwarded by the mental healthcare provider via the Medical Treatment Facility commanding officer to the Service member's commanding officer within one business day after the evaluation is completed. See enclosure 4.

Name: CDR Nancy L. Bakalar/October 16, 1997/HA Admin # 1768

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Copies for: FILE/CHRON/AO/HA EXEC